

1 was considered to - to whom Liberty would look to as being  
2 the lawyer -- the lawyer that was responsible for -- for  
3 having that account at the law firm?

4 THE WITNESS: No I think in that time frame it was  
5 probably me more than anybody else.

6 JUDGE SIPPEL: Did -- did -- I'm asking this  
7 question because it came up -- it was testified to in this  
8 fashion in this case. But was there any -- was there any  
9 understanding either stated or implied that you or Mr.  
10 Lehmkuhl would be reporting to Mr. Price?

11 THE WITNESS: Reporting to Mr. Price about what?

12 JUDGE SIPPEL: Just reporting to Mr. Price about -  
13 - about legal matters that you were handling?

14 THE WITNESS: Well Michael was preparing  
15 inventories for Liberty.

16 JUDGE SIPPEL: I'm -- I'm not --

17 THE WITNESS: On somewhat of a regular basis and I  
18 think, you know, he had been asked to prepare those reports,  
19 but other than that, no nothing comes to mind.

20 JUDGE SIPPEL: All right.

21 MR. SPITZER: Your Honor, may I just ask two --

22 JUDGE SIPPEL: What I was -- what I was getting  
23 at. I'm trying to get an understanding in terms of just how  
24 the relationship was how things were handled between your  
25 law firm and Liberty.

1           And aside from the specific tasks that were called  
2   upon to be done or -- or specific memorandums that were  
3   prepared to report, I'm asking the question in terms of a  
4   general course of conduct.

5           THE WITNESS: Again, I think the -- the largest  
6   contact was between Mr. Lehmkuhl and Mr. Nourain in  
7   connection with --

8           JUDGE SIPPEL: Licensing.

9           THE WITNESS: Licensing.

10          JUDGE SIPPEL: Okay. All right. I have -- did  
11   you want to --

12          MR. SPITZER: Just in that vein if I might ask  
13   just two questions, very narrow questions that might  
14   elucidate, they might not.

15          BY MR. SPITZER:

16          Q   Who initially was responsible for introducing  
17   Liberty to the firm of Pepper & Corazzini if you know?

18          A   I think it was Todd Parriott.

19          Q   Okay and do you recall when that happened?

20          A   Again, I think that was in the late 80s in  
21   connection with the 18 gigahertz rule making.

22          Q   And from the period spring of '94 through April of  
23   '95 into the present, who prepares the bills that Pepper &  
24   Corazzini sends to Liberty Cable or Bartholdi?

25          A   Oh, I do -- well accounting does and then I -- I'm

1 given what we call a pre-bill and I review the pre-bill and  
2 give it back to accounting, which then sends the bill out.

3 JUDGE SIPPEL: In common parlance, you were the  
4 billing partner? You were the billing --

5 THE WITNESS: Correct.

6 JUDGE SIPPEL: You were the billing attorney on  
7 that account?

8 THE WITNESS: Correct. And that would have been I  
9 believe from about '94 I think that commenced.

10 MR SPITZER: Thank you, Your Honor.

11 JUDGE SIPPEL: Mr. Beckner?

12 CROSS EXAMINATION

13 BY MR. BECKNER:

14 Q Mr. Barr, my name is Bruce Beckner, I represent  
15 Time Warner Cable of New York City in this proceeding.  
16 Since we ended your direct with the bills, let's -- Your  
17 Honor, I'd like to go ahead and offer the redacted versions  
18 of the bills that have been previously produced to be marked  
19 and -- and then shown to the witness?

20 JUDGE SIPPEL: Surely. Let's have them marked.  
21 The -- let's see the next number would be well -- I know you  
22 have some other documents to mark later on, but if you  
23 take -- 44 would be the next number. Is that agree -- Ms.  
24 McGuire you agree is that right?

25 MS. MCGUIRE: Yes.

1 JUDGE SIPPEL: I'm not always 100% right on that  
2 account. Would you just briefly -- would you just briefly  
3 describe this for the reporter? Then let's get it marked.

4 MR. BECKNER: Yes. For the record, I've handed  
5 the Court Reporter to be marked as Time Warner Cablevision  
6 Exhibit 44, a set of redacted copies of Pepper & Corazzini  
7 billing statements for the period -- covering the period  
8 January to May of 1995 and they have production numbers at  
9 the bottom, beginning at number 017490 and ending at 017508  
10 with all the numbers included.

11 JUDGE SIPPEL: All right. The Reporter will so  
12 mark that -- that document for identification as TWCV Number  
13 44. You're moving it into evidence at this time?

14 MR. BECKNER: I can do it now. I want to show it  
15 to the witness. Is there an objection?

16 MR. SPITZER: There's no objection, Your Honor.

17 JUDGE SIPPEL: All right. Well let's get it  
18 received into evidence.

19 (The document referred to was  
20 marked for identification as  
21 TWCV Exhibit No. 44 and  
22 received in evidence.)

23 MR. BECKNER: All right. We'll move it into  
24 evidence at this time.

25 MR. SPITZER: Could I just? I hope you don't

1 mind. I just want it clear -- the only redactions were for  
2 the dollar amounts billed corresponding to the hours and  
3 that was per Your Honor's instruction last week or the week  
4 before.

5 JUDGE SIPPEL: Very good. Does the reporter have  
6 a copy? I mean I'm sorry. Does the witness have a copy?

7 MR. BECKNER: I'll show the witness a copy.

8 JUDGE SIPPEL: Do you need another copy?

9 MR. BECKNER: No, I've got one.

10 JUDGE SIPPEL: All right, that's -- you can -- let  
11 me give you the one that's been marked as an exhibit.

12 BY MR. BECKNER:

13 Q Mr. Barr, as a preliminary matter I'd like you  
14 just to take a look through Exhibit 44 and tell us if you  
15 can identify this as a copy of your firm's billing  
16 statements to Liberty Cable for the period January '95  
17 through May '95?

18 A Yes, that's what it appears to be.

19 Q Okay and can you confirm for us counsel's  
20 statement that the only thing as far as you can tell that's  
21 been removed from the bills are the dollar amounts?

22 A Yes, that appears to be the case.

23 Q Okay. Now I take it that at least with respect to  
24 your personal practice, do you -- do you keep a daily time  
25 sheet or time log which then is incorporated into the

1 statements?

2 A Yes.

3 Q Okay. And do you -- in doing that do you try to  
4 record as accurately as you can the things you do for a  
5 particular client on that day such as telephone calls,  
6 research, letters, memos and so on?

7 A I do my best, yes.

8 Q Okay.

9 A I -- it's -- but for example, if I was spending an  
10 entire day doing something for any client, not just Liberty,  
11 if I happened to have a five minute phone call with the  
12 client during the course of the day, I might not mark down  
13 that I had that phone call, just because I was doing a host  
14 of other things for the client. But again. But other than  
15 those instances, I -- yes I did my best to be accurate in my  
16 billing.

17 Q So would it be safe to say that with respect to  
18 the entries that are identified as yours here, as HJB, that  
19 if -- that if an entry says as for instance the January 11th  
20 entry says "telephone call with Peter Price" that in fact  
21 it's very likely that you did have a telephone call with  
22 Peter Price on the day indicated?

23 A Yes.

24 Q Okay. But if I understood what you were saying,  
25 it's possible that you may have had other telephone calls of

1 a brief nature with Peter Price that might not be reflected  
2 on these bills?

3 A It's possible but again that would occur only if,  
4 you know, a large amount of time was spent that day working  
5 on Liberty matters I think and -- and I happened to have a  
6 brief conversation during the course of that work. But if  
7 it was a stand alone type thing but if it didn't, you know,  
8 take up an exceedingly large portion of the day, I more than  
9 likely wrote it down that a conversation took place.

10 Q Okay. I'd like you to direct your attention to  
11 the -- the January 11th '95 entry with your initials beside  
12 it.

13 A Mm-hmm.

14 Q Does that entry reflect the telephone call that  
15 you said you had with Mr. Price concerning Time Warner's  
16 petitions to deny that you testified to on direct?

17 A I believe so.

18 Q Okay. During the course of that telephone call  
19 did you and Mr. Price conclude on a course of action that  
20 you were going to pursue on Liberty's behalf in response to  
21 these petitions?

22 A I think at that time Peter asked me to prepare a  
23 memo and put down in writing a summary of the sum and  
24 substance of the allegations that Time Warner had made. And  
25 it was generally agreed that yes we were going to respond in

1 some manner to the allegations.

2 Q In the conversation that you had with Mr. Price --  
3 well strike that. Do you recall as you sit here now whether  
4 or not the -- in the petitions were directed to all or less  
5 than all of Liberty's microwave applications for paths that  
6 would terminate in the service area of Time Warner Cable New  
7 York City?

8 A I don't understand the question.

9 Q Okay. The Time Warner petition to deny that  
10 you're referring to in your testimony and this time entry  
11 here. Was that directed at one or more than one Liberty  
12 application, if you remember?

13 A That petition to deny I really -- without looking  
14 at it, I really don't recall.

15 Q Okay.

16 A But our conversation pertained to that petition to  
17 deny.

18 Q Okay. Were there other petitions to deny that you  
19 discussed with Mr. Price at some other time?

20 A As they were filed and hit my desk, I think we  
21 talked about them. I believe this was the first petition to  
22 deny that had been filed.

23 Q So -- so I take it that you kept him informed on a  
24 continuing basis of when additional petitions came into your  
25 office?



1 A Right.

2 Q All right.

3 A Now whether we spoke about every one, I can't -- I  
4 don't -- I'm not sure that we actually spoke about every one  
5 as they -- as they came in.

6 Q Did you forward a copy --

7 A Yes.

8 Q of each of these?

9 A Yes.

10 Q Did you -- was it addressed specifically to Mr.  
11 Price?

12 A I think I generally did it in a memo form to Peter  
13 with copies to Henry Rivera and if not Lloyd Constantine,  
14 then someone in his office.

15 Q Now I want you to look at the entry for January  
16 17, 1995. There's a notation regarding a telephone call  
17 with Peter Price and Lloyd Constantine re: state court and  
18 federal court and FCC litigation.

19 Can you tell us what that means there if you know?

20 A The FCC litigation had to do with the petition to  
21 deny. The state and federal court litigation had to with  
22 matters that -- that Mr. Constantine's firm was handling and  
23 -- in I believe the Southern District of New York and -- and  
24 -- and I think the New York State Courts.

25 Q Okay. Now were the -- the matters that the

1 Constantine firm was handling, would that include the the  
2 lawsuit against New York City in connection with New York's  
3 attempt to impose a cable franchise requirement on --

4 A I think that's what it related to.

5 Q Okay. Now was there litigation involving  
6 copyright going on at the same time?

7 A In -- I believe so, yes.

8 Q Okay. But -- but as far as you can recall --

9 A I'm not quite sure what stage.

10 Q At this time --

11 A What stage -- I think a complaint had been filed  
12 at this point or prior to this point.

13 Q Okay.

14 A And so the conversation may have involved that as  
15 well.

16 Q You just can't recall it involved that the  
17 copyright litigation or the cable franchise litigation?

18 A I don't think --

19 JUDGE SIPPEL: Just a minute. Just a minute.  
20 Stay on the record. You got to be careful that one stops  
21 talking and the other starts talking. There's a point in  
22 which you're starting to talk over one another and you just  
23 have to both be conscious of it. You may continue.

24 BY MR. BECKNER:

25 Q Do you want me to repeat the question?

1           A     Please.

2           Q     Okay. I'm just trying to summarize your  
3 testimony. Do you believe that the January 17th call could  
4 have involved both the copyright litigation and what I'm  
5 going to call the cable franchise requirement litigation  
6 that was in the Southern District?

7           A     Anything is possible. Yeah I suppose it could  
8 have. I don't think it did because it wasn't -- I think the  
9 what was going on at the FCC and what was going on in the  
10 Southern District non copyright wise were somewhat related.

11                     And so I think that's why we had the conversation.  
12 The copyright litigation really didn't specifically relate  
13 to what was going on at the FCC at the time.

14           Q     Now in your direct testimony you said that you had  
15 advised Mr. Price that the -- the effect of the petition to  
16 deny would be to slow down the application process. Is that  
17 right?

18           A     I believe, so yes.

19           Q     Okay.

20           A     Something to that effect.

21           Q     In your discussion of the effect that you saw of  
22 the petition to deny, did you identify any specific  
23 application that would be affected or any specific group of  
24 applications that would be affected as compared to some  
25 other group of Liberty applications that might not be

1 affected?

2 A I think at the time we were -- Time Warner had  
3 filed the one petition to deny and so I think we were  
4 talking about those -- those applications or the  
5 applications affected by the petition to deny.

6 Q Okay. And at any later time when Time Warner  
7 filed additional petitions to deny, did you have any  
8 subsequent conversation with anyone at Liberty about the  
9 effect of those additional filings on applications?

10 A I don't believe so.

11 Q Let me ask you something else. When you came to  
12 work at -- at your firm and began working on the Liberty  
13 account, did anyone tell you about any kind of procedure  
14 that had been set up by which Liberty and Pepper & Corazzini  
15 would work together to file these microwave applications?

16 A Tell me? No.

17 Q Okay. And again, --

18 A Again I wasn't responsible for putting together  
19 the applications.

20 Q Okay. Now when Mike Lehmkuhl came to work I think  
21 you said that -- that you became a little more involved in  
22 the application process, because he was new to the firm.  
23 Was that right?

24 A Right. I reviewed the applications before they  
25 went out the door, just again to make sure that if the

1 engineering portion said the center line was 200 feet. That  
2 the front page of the application where it asks a similar  
3 question, it had the same response, things like that.

4 Just to make sure the application was -- was  
5 correct, that it didn't contain any internal  
6 inconsistencies.

7 Q Well did you tell Mr. Lehmkuhl anything about how  
8 the application process was to be handled with Liberty? In  
9 other words, whether or not he was supposed to get a phone  
10 call from someone at Liberty before working on an  
11 application or was he supposed to get a frequency  
12 coordination from Comsearch? Those kinds of procedures.

13 A I didn't -- I believe he might have had that  
14 conversation or that type of conversation with Ms. Richter  
15 from whom he assumed the work load.

16 Q But whatever the substance of that conversation  
17 was, you weren't a part of it, I take it?

18 A I don't believe so, no.

19 Q And -- and you don't even know whether in fact --  
20 in fact he had such a conversation?

21 A No.

22 Q Okay. Were you aware at all, at any time from  
23 when you first became involved with the Liberty account up  
24 through I'd say May of 1995, as to the process by which Mr.  
25 Lehmkuhl was drafting and filing these applications for

1 Liberty?

2 A I had a general understanding. But again I wasn't  
3 intimately involved with the preparation of the  
4 applications.

5 Q Were you aware, for example, that Mr. Nourain  
6 signed a group of application forms in blank to be left in  
7 your offices and then dated and filed whenever an  
8 application was needed?

9 A I think that came to my attention. I'm not sure  
10 when it came to my attention. But I don't think I had an  
11 understanding that that was an ordinary course of business.

12 Q Did you have any understanding prior to May 1995  
13 as to whether or not your firm was expected as a matter of  
14 routine requests for STA at the same time that it filed  
15 microwave applications for Liberty?

16 A In that time frame, no I did not have that  
17 understanding.

18 Q Did you have any understanding at all as to the  
19 circumstances under which your firm should or was expected  
20 to file requests for STA for Liberty again up through May  
21 1995?

22 A If I had an understanding it would be upon the  
23 request of the client.

24 Q And do you recall receiving any such request from  
25 the client during the period 1994 through May 1995?

1           A     No. But those -- again those requests wouldn't  
2 have come to me.

3           Q     They would be handled by Mike Lehmkuhl in this --  
4 at least from the second half of '94?

5           A     Well -- and prior to that, Jennifer Richter.

6           Q     And finally, I take it that as far as, you know,  
7 there was no formalized program that you were aware of  
8 whereby your firm would somehow seek to ensure that Liberty  
9 was not operating without licenses?

10                   I mean aside from the regular day to day  
11 communication between the firm and the client?

12           A     We didn't have any type of compliance program set  
13 up for Liberty. Mike Lehmkuhl prepared some inventories for  
14 Liberty as had Jennifer Richter before him. Those were  
15 prepared and sent to the client for the client's use. But  
16 we didn't have any type of internal compliance program.

17           Q     Now the inventories -- let me just -- Were they -  
18 - was there some regular basis on which they were, you know,  
19 supposed to be prepared and sent to the clients. So for  
20 example, once a year, once every six months, something like  
21 that?

22           A     In what --

23           Q     Again in the period 1994 through May of 1995.

24           A     I think it was just kind of on an -- on as needed  
25 basis. Again, Mike Lehmkuhl was almost entirely responsible

1 for the preparation of those inventories. I reviewed them  
2 before they went out. But I think he updated them, you  
3 know, as they needed to be updated.

4 JUDGE SIPPEL: Let's go off the record for a  
5 minute.

6 (Off the record.)

7 JUDGE SIPPEL: On the record.

8 MR. BECKNER: Your Honor, does the witness have  
9 the Liberty exhibits available to him?

10 JUDGE SIPPEL: Yes. That's the stack you have  
11 right in front of him.

12 THE WITNESS: In my hands.

13 JUDGE SIPPEL: You should have it.

14 BY MR. BECKNER:

15 Q Mr. Barr, I'd like you to take a look at Liberty  
16 Bureau Exhibit 1 which I hope is on the top of the stack.  
17 It's a copy of a memorandum from Mike Lehmkuhl addressed to  
18 Peter Price. And it's dated February 24, 1995.

19 A Yeah, I have it in front of me.

20 Q Okay. At the bottom of the first page there's a  
21 BCC indicated and there's two sets of initials. Is one of  
22 those sets of initials yours?

23 A Yes.

24 Q Okay. And do you recall whether or not you took a  
25 look at this memorandum before it went out?



1           A     It's likely that I did.

2           Q     Okay. And do you understand -- did you  
3 understand the memorandum to be indicating to the client  
4 based on at least your firm's records, the status of  
5 Liberty's applications as of the date the memo was prepared?

6           A     That is the information it appears to convey or  
7 attempt to convey, yes.

8           Q     Now was it your recommendation that the memo --  
9 that the memo that we're looking at here be sent to Mr.  
10 Price and the rest of the addressees or was that Mr.  
11 Lehmkuhl's decision?

12          A     I don't believe it was my recommendation, no.

13          Q     Okay. Do you know whether or not it was customary  
14 for these inventories to be sent to Mr. Price and Mr.  
15 Nourain?

16          A     Do I know if it was customary?

17          Q     Yes.

18          A     I think they were, yes.

19          Q     All right. Now I want to move forward in time to  
20 the conference call that you said you participated in -- in  
21 Henry Rivera's office on April 27. Oh actually strike that.

22               MR. BECKNER: I -- Your Honor, I'd like to have the  
23 witness look at this copy of his desk calendar and what  
24 I'm -- just to tell you what I'm going to do before I do it.  
25 I'm going to ask him to initial in red pen any entries that

1 relate to the Liberty account because it's not really  
2 evident in all cases what entries relate to what.

3 I'd like to have him do that to see what else is  
4 on here.

5 JUDGE SIPPEL: You want him have him do that  
6 before we have it marked as an exhibit then?

7 MR. BECKNER: Yes.

8 JUDGE SIPPEL: All right. Any objection to that?

9 MR. SPITZER: No objection, Your Honor.

10 JUDGE SIPPEL: All right. You may proceed.  
11 Approach the witness.

12 BY MR. BECKNER:

13 Q Thank you, Your Honor.

14 JUDGE SIPPEL: Do we all have a copy of that  
15 document that you're giving the witness?

16 MR. BECKNER: Mr. Spitzer handed it around. I  
17 think one copy to each of us.

18 JUDGE SIPPEL: I don't have one.

19 MR. SPITZER: I wasn't anticipating the use of it  
20 as an exhibit.

21 JUDGE SIPPEL: No that's all right.

22 MR. SPITZER: I'm sorry --

23 JUDGE SIPPEL: I'll look over the witness'  
24 shoulder.

25 MR. SPITZER: Your Honor, we do have an extra, I'm

1       sorry.

2               JUDGE SIPPEL:   Thank you.

3               MR. BECKNER:   May I question the witness now, sir?

4               JUDGE SIPPEL:   Certainly.   You may approach the  
5       witness.

6               MR. BECKNER:   Okay, thank you.

7               BY MR. BECKNER:

8               Q       Mr. Barr I'm going to give you a copy of what's  
9       been identified to us as your desk calendar.   I'm also going  
10      to give you a red pen.   And first can you just tell us  
11      whether or not recognize this as a copy of your desk  
12      calendar from April 1995?

13              A       Yes, I do.

14              Q       Okay.   And what I'd like you to do, if you could,  
15      is to indicate with your initials on the red pen every entry  
16      on the calendar that you see that you recognize as relating  
17      to the Liberty Cable account.

18              A       Just initial?

19              Q       Yes.   And this is a red pen so we'll be able to  
20      distinguish that from what's already there.

21              MR. SPITZER:   Your Honor, could the witness just  
22      indicate the dates so that those of us out here who can't  
23      see --

24              A       Right I just indicated April 5.

25              JUDGE SIPPEL:   April 5?   Okay.   What does -- what

1 does that say? What does tell you?

2 THE WITNESS: It says 1808 which is Liberty's  
3 client number has a dash and then it says response to TW it  
4 appears to say Supp., which is probably an abbreviation for  
5 supplement, though I'm not sure.

6 JUDGE SIPPEL: All right. What's the next item?

7 THE WITNESS: It would be on April 25th. It says  
8 1808. Again, the client's -- our number for the client.  
9 And it says Opt to Warner petition. And then the 27th  
10 there's an entry 4 p.m. meet at Henry's office 1250  
11 Connecticut, Suite 800. And that appears to be everything.

12 BY MR. BECKNER:

13 Q All right. With respect to the entry on April  
14 5th. Is that just your notation of a due date for a  
15 particular paper?

16 A Correct.

17 Q Okay. And then that would also be true with  
18 respect to your entry on April 25th?

19 A Correct.

20 Q Okay. And then, the entry on April 27th does that  
21 relate to the conference call that you've testified about  
22 before?

23 A Correct.

24 Q Okay. Your practice with respect to this calendar  
25 I take it is -- is sometime, this is not a recording of what

1     you did but a recording of things that you were supposed to  
2     do?

3             A     Correct.

4             Q     Okay.  So that sometime before April 27th you  
5     wrote down what you identified as being the -- the entry  
6     reminding you to go to Henry Rivera's office?

7             A     Yes.

8             Q     But I take it you have no way of knowing how far  
9     in advance of April 27th you wrote that down?

10            A     No, I don't recall.

11            Q     And since the time was -- what time were you  
12    supposed to go?

13            A     4 p.m.

14            Q     Do you think if you had gotten the call -- the  
15    word in the morning of the 27th that you were supposed to  
16    show up at Henry Rivera's office that afternoon, would you  
17    put that on your calendar?

18            A     I might have.

19            Q     Yeah.

20            A     But I think if I receive the call that day it's  
21    likely I wouldn't have put it down.

22            Q     So you --

23            A     I mean I'm not -- I'm -- I don't probably use the  
24    calendar as much as I ought to or should.  We have a tickler  
25    system at the firm that appraises me of deadlines and such,

1 so. I would have been notified of say some of these  
2 opposition or response deadlines independently of whatever  
3 my calendar told me.

4 So I only sporadically wrote down things such as,  
5 you know, deadlines for a responsive pleading.

6 Q Okay. But going back to the conference call on  
7 the 27th do you think it more likely that you were advised  
8 of that call on a day before the 27th? In other words that  
9 somebody --

10 A It's more likely -- that's more likely but again I  
11 can't be say with 100% certainly that I was advised of it  
12 before hand. Or whether I was advised of it that morning.

13 MR. BECKNER: Okay. Your Honor, I'd like to go  
14 ahead and have this document marked and we'd like to move it  
15 into evidence. I think this would be Exhibit 45?

16 JUDGE SIPPEL: It's --

17 MR. BECKNER: Time Warner Cablevision Exhibit 45?

18 JUDGE SIPPEL: That's would be -- that's the next  
19 number, yes. TWCV number 45. Certainly it's been  
20 identified.

21 MR. SPITZER: We have no objection, Your Honor.

22 JUDGE SIPPEL: And it's moved and received into  
23 evidence as TWCV's number 45. Just be sure the Reporter has  
24 enough copies to work with.

25 //

1 (The document referred to was  
2 marked for identification as  
3 TWCV Exhibit No. 45 and  
4 received in evidence.)

5 MR. BECKNER: Now, Your Honor, what I'd like to do  
6 is, you know, break for lunch or whenever we'll take the  
7 copy that the reporter stamps and make an additional six or  
8 seven copies of that, if that's okay?

9 JUDGE SIPPEL: That's fine.

10 MR. SPITZER: If it's in color. You need the red.

11 JUDGE SIPPEL: I'm not going to comment on that.

12 MR. BECKNER: We'll get them in color, Your Honor.

13 JUDGE SIPPEL: Okay.

14 MR. BECKNER: We may not be able to do it here at  
15 the FCC.

16 JUDGE SIPPEL: All right. Let's ask Mr. Barr  
17 another question.

18 BY MR. BECKNER:

19 Q All right. Mr. Barr, I'm going to now focus on  
20 this conversation in which you said you recall having on the  
21 27th in Henry Rivera's office. And I think you testified  
22 that Mr. Price indicated that -- that he believed that  
23 Liberty was operating in several locations without a  
24 license. Is that right? Operating microwave systems.

25 A Well he -- he advised us that -- that Liberty was

1 providing service to several locations. He didn't convey  
2 the information that -- that they were operating without  
3 licenses.

4 Q Well I mean Liberty -- at the time Liberty was  
5 providing service to a very large number of apartment  
6 buildings. He didn't give you the list of all the  
7 buildings, did he?

8 A No.

9 Q Okay. He gave you a list of -- of -- do you  
10 remember how many buildings he identified?

11 A No I don't. It was probably a dozen or more.

12 Q Okay.

13 A But he had indicated that service was being  
14 provided to those locations.

15 Q Okay. And -- and -- and --

16 A And that was the substance of the information he  
17 imparted to us.

18 Q Okay. And was there anything special about those  
19 locations that he indicated to you that he was advising you  
20 that service was being provided to them?

21 A I -- as I said earlier, I don't recall the  
22 prefatory question or comment that elicited the information  
23 from -- from Mr. Price. It was -- again it was a general  
24 conversation about the status of affairs. And during the  
25 course of the conversation he advised us that Liberty was



1 providing service to those locations.

2 Q Well, could it have -- was it that in the  
3 conversation you were -- the group -- when I say you I mean  
4 the group of people on the call was discussing specific  
5 applications to specific addresses that Time Warner had  
6 petitioned to deny?

7 A No. I don't believe so.

8 Q All right. I mean do you have any idea of why it  
9 was that Mr. Price came up in the middle of the conversation  
10 and said oh we're providing service to these 12 or so  
11 addresses?

12 A Well again I think the larger purpose of the  
13 conversation concerned delays that Liberty was experiencing  
14 in obtaining licenses and -- from the commission. And that  
15 was the larger purpose of the call, and that was the  
16 substance of the call.

17 Q Well didn't you just testify that you -- you  
18 advised, you personally, that ideally service should be  
19 discontinued to those locations and the Commission should be  
20 notified of premature or unlicensed operations? I mean did  
21 I get that right?

22 A Yes.

23 Q Okay. Well why did you express that opinion in  
24 the call?

25 A Well, because I think we knew or I knew that those